IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

CIVIL WRIT No. 3331 of 2007

BHOORA RAM & ANR.
V/S
STATE & ORS.

Mr. SUNIL BENIWAL, for the appellant / petitioner

Mr. VIJAY BISHNOI, Mr. PRITAM SOLANKI, for the respondent & Mr. BL BHATI, AGA.

Date of Order : 23.11.2007

HON'BLE SHRI N P GUPTA,J.
HON'BLE SHRI MUNISHWAR NATH BHANDARI,J.

ORDER

We have heard learned counsel for the parties appearing.

This PIL has been filed seeking a restraint against the respondents No.4 and 5 from carrying out illegal excavation of sand stone (Murd) from various khasras detailed therein, and a direction has also been prayed to place on record the copy of the contract awarded in favour of private respondents No.4 and 5, and thereafter the same be cancelled.

Perusal of the writ petition shows that the whole thrust of the writ petition is that the private respondents are undertaking illegal excavation without any legal authority from the concerned authorities, without there being any NOC from the Gram Panchayat, and in addition also, describing that the land is Nadi/catchment area, and

so on. As against this, a reply has been filed by the State contending that for the purpose of construction of Mega highway, short term permit had been granted to the respondents No.4 and 5 by the Asstt. Mining Engineer, copies of the permits have been produced on record as Annex.R/1 and R/2 being dated 6.3.2007 and 3.5.2007. Likewise, NOC of the Gram Panchayat has also been produced on record as Annex.R/3. Thus, it is clear the petitioner has not come basically with correct facts. When the respondents No.4 and 5 were excavating under valid legal authority, the writ petition filed by alleging the excavation to be illegal and without authority of law, cannot be entertained. The same is, therefore, dismissed summarily.

(MUNISHWAR NATH BHANDARI),J. (N P GUPTA),J.

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